

Draft
Environmental Assessment

Animals of Montana, Inc
Roadside Menagerie
Application

August, 2011



**Montana Fish,
Wildlife & Parks**

**Draft Environmental Assessment
MEPA, NEPA, MCA 23-1-110 CHECKLIST**

PART I. PROPOSED ACTION DESCRIPTION

1. **Type of proposed state action: Licensure of a roadside menagerie, Animals of Montana, to Troy Hyde.**
2. **Agency authority for the proposed action: MCA 87-4-803**
3. **Name, address and phone number of project sponsor (if other than the agency):**
Troy Hyde
Animals of Montana, Inc.
170 Nixon Peak Road
Bozeman, Montana 59715
4. **Anticipated Schedule:**
Estimated Commencement Date: July 18, 2011
Estimated Completion Date: August 31, 2011
Current Status of Project Design (% complete): 0%
5. **Location affected by proposed action (county, range and township – included map): T1N R7E S2 Gallatin County**
6. **Project size -- estimate the number of acres that would be directly affected that are currently:**

	<u>Acres</u>		<u>Acres</u>
(a) Developed:		(d) Floodplain	<u>0</u>
Residential	<u>0</u>		
Industrial	<u>1</u>	(e) Productive:	
(existing caging area)		Irrigated cropland	<u>0</u>

(b) Open Space/ Woodlands/Recreation	<u>0</u>	Dry cropland	<u>0</u>
		Forestry	<u>0</u>
(c) Wetlands/Riparian Areas	<u>0</u>	Rangeland	<u>0</u>
		Other	<u>0</u>

7. Permits, Funding & Overlapping Jurisdiction.

(a) **Permits:** permits will be filed at least 2 weeks prior to licensure by MT.

<u>Agency Name</u>	<u>Permits</u>
United States Department of Agriculture	Class C Exhibitor's Permit

(b) **Funding:**

<u>Agency Name</u>	<u>Funding Amount</u>
None	

(c) **Other Overlapping or Additional Jurisdictional Responsibilities:**

<u>Agency Name</u>	<u>Type of Responsibility</u>
United States Department of Agriculture	Animal Welfare
U.S. Fish and Wildlife Service	Captive Breeding Permit

7. Narrative summary of the proposed action:

Mr. Troy Hyde has applied for a Montana FWP roadside menagerie license and has also applied for a USDA Class C exhibitor's permit. The license, if obtained, would be issued in the name of Animals of Montana, Inc. The roadside menagerie license in combination with the Class C exhibitor's permit allow a licensee to use wild animals for exhibition or attracting trade. Mr. Hyde would propose to use the animals he has in his current collection for commercial purposes, including photography and film projects both on site and off site. Animals currently held include a mountain lion, an African lion, 3 brown bears, 2 black bears, 12 wolves, 1 tiger, 4 bobcats, 3 lynx, 1 Siberian lynx, 2 badgers, 1 black leopard, 4 skunks, 2 raccoons, 2 fisher, 1 snow leopard, 4 red foxes, 2 cross foxes, and 3 porcupines. The animals are held in enclosures either individually or with animals of the same species housed together. The enclosures are all within an approximately 1 acre compound surrounded by an 8' chain link fence. The compound itself is on a 20 acre land parcel in a rural area of Gallatin County, 25 miles NNW of Bozeman, MT.

Mr. Hyde previously operated Animals of Montana at the current location from 1995 until 2009. The facility was licensed by Montana FWP as a roadside menagerie. At that time, the animals were used commercially for photography purposes as well as film projects both on and off site. Mr. Hyde's Class C exhibitor's permit issued by the USDA was not renewed in June of 2009 and he was therefore unable to retain his FWP roadside menagerie license. At that time, he transferred his existing bears and large cats onto a wild animal menagerie license which did not require a Class C

exhibitors permit. He was able to maintain a total of 10 bears and large cats on site under that permit but they could not be used for exhibition or attracting trade. Mr. Hyde also has a fur farm license issued by FWP that allows him to possess, breed, and sell furbearers of which he has various species. Other non-game and non-fur bearer species in Mr. Hyde's collection, all of which were captive bred, do not require a permit from FWP as long as they are not used for exhibition or attracting trade.

An environmental assessment was done initially on Mr. Hyde's roadside menagerie application in October of 1994. The EA evaluated a request for a roadside menagerie license so that Mr. Hyde could obtain one brown bear and one snow leopard to be used for exhibition or attracting trade. At that time, Mr. Hyde possessed a number of other animals under an existing Game Farm/Fur Farm/Bird Farm permit. Mr. Hyde was issued a roadside menagerie permit with stipulations in April of 1995. The roadside menagerie permit was amended in March of 1998 to allow for the possession and commercial use of badgers, coyotes, red foxes, raccoons, ringtail cats, skunks, wolves, a Siberian tiger, and one additional brown bear. The permit was amended once again in September of 1999 to allow for the possession and commercial use of 3 additional (total 4) snow leopards and 1 additional (total 2) Siberian tigers. In April of 2000, Mr. Hyde was given authorization to hold up to 16 large cats on his facility based on prior evaluation of appropriate enclosure capacity. Finally, in July of 2000 Mr. Hyde was given authorization to possess, with stipulations, up to eight bears, of which no more than two could be Kodiak bears.

9. Description and analysis of reasonable alternatives:

Alternative A: No Action – Do not issue a roadside menagerie license

Alternative B: Proposed Action – Issue a roadside menagerie license with stipulations to mitigate any potential environmental impacts.

10. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:

1. The permit is limited to the numbers and species of animals included in the application. Any additions will require authorization from the Department.
2. Bears will be neutered to prevent breeding and to mitigate attraction of native carnivores.
3. Liability insurance, naming the Department as an additional insured party, in the amount of \$1,000,000 must be provided and kept in effect. The policy shall cover

incidents both on and off the facility premises. The animals are not to be taken to any area where the policy is not in effect. Proof of an active policy corresponding to the above requirements shall be provided to the Department with each annual license renewal.

4. The animals must be caged at all times in caging approved by the Department, unless they are being worked. The animals may be removed from their cages for brief periods for training or professional photographic or filming purposes only. During these periods, they must be under the direct control of qualified handlers and must remain within exterior fencing surrounding the facility and within an electric wire enclosure surrounding the training area. No direct contact between the public or clients is allowed with the animals at any time.
5. Animals may only be taken off site with authorization (and an indemnity agreement) from the Department. Any time the animals are taken off premises and worked outside a cage, a firearm or tranquilizer gun will be ready and available in the event the animals become violent. The owners are responsible for maintaining the appropriate types and suitable quantities of suitable tranquilizing drugs.
6. Animals taken off site and worked outside of their enclosures must remain within either suitable fencing approved by the Department or within an approved electrified barrier to which the animal is conditioned. Again, no contact with the public or with customers is allowed.
7. Any time one of the animals becomes violent, attacks someone, becomes uncontrollable, exhibits aggressive behavior, or escapes it shall be reported immediately to the Department.
8. An emergency response plan intended for movement animals if necessary due to natural disasters (flood, fire, etc.) must be filed with the Department.
9. Any time an incident occurs or an animal escapes from the facility or from an off site compound, the Department must be contacted as soon as reasonably possible.
10. The Department may revoke permission to use the animals outside of cages any time it believes that public safety may be threatened.
11. Failure to comply with the terms of these conditions or other state laws or regulations regarding roadside menageries shall, in addition to any criminal penalties, be grounds for revocation of the permit.
12. This permit shall be valid only when the applicant is in compliance with federal and state regulation regarding possession of wild animals for exhibition or commercial use and has been issued a USDA/APHIS Class C Exhibitor's permit.

PART II. ENVIRONMENTAL REVIEW CHECKLIST

Evaluation of the impacts of the Proposed Action including secondary and cumulative impacts on the Physical and Human Environment.

A. PHYSICAL ENVIRONMENT

1. <u>LAND RESOURCES</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Soil instability or changes in geologic substructure?		X			yes	1a
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil, which would reduce productivity or fertility?			X		no	1b
c. Destruction, covering or modification of any unique geologic or physical features?		X				
d. Changes in siltation, deposition or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?		X				
e. Other						

1a. An area within the one acre exterior fence has been graded and a drainfield installed.

1b. Again, area within the exterior fence has been over covered with cage foundations and gravel applied along with the drainfield.

2. <u>AIR</u> Will the proposed action result in:	IMPACT *					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Emission of air pollutants or deterioration of ambient air quality? (Also see 13 (c).)		X				
b. Creation of objectionable odors?			X		yes	2b.
c. Other						
d. For P-R/D-J projects, will the project result in any discharge, which will conflict with federal or state air quality regulations? (Also see 2a.)		No				

2b. Animal cages must, by administrative rule, be cleaned at least once a day and said enclosures and their surroundings kept in a sanitary and attractive condition, free from offensive odor.

3. <u>WATER</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen or turbidity?		X				
b. Changes in drainage patterns or the rate and amount of surface runoff?			X		yes	3b
c. Alteration of the course or magnitude of floodwater or other flows?		X				
d. Changes in the amount of surface water in any water body or creation of a new water body?		X				
e. Exposure of people or property to water related hazards such as flooding?		X				
f. Changes in the quality of groundwater?			X		yes	3f
g. Changes in the quantity of groundwater?			X		yes	3g
h. Increase in risk of contamination of surface or groundwater?			X		yes	3h
i. Effects on any existing water right or reservation?		X				
j. Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
k. Effects on other users as a result of any alteration in surface or groundwater quantity?		X				
m. <u>For P-R/D-J</u> , will the project result in any discharge that will affect federal or state water quality regulations? (Also see 3a.)		No				

3b. Installation of gravel and a new drain field will change the drainage pattern and minimize run-off from the enclosure area.

3f. Minimal groundwater quality changes in a 1 acre area will not affect overall groundwater quality in the area.

3g. May be slight increase in quantity of groundwater due to washing down of cages.

3h. Minimal risk of contamination from animal waste, but no more than what would be produced by most agricultural operation.

4. <u>VEGETATION</u> Will the proposed action result in?	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Changes in the diversity, productivity or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?			X		no	4a
b. Alteration of a plant community?			X		no	4b
c. Adverse effects on any unique, rare, threatened, or endangered species?		X				
d. Reduction in acreage or productivity of any agricultural land?		X				
e. Establishment or spread of noxious weeds?		X				
f. Other:						

4a. Reduction in productivity in the small enclosure area where gravel has been applied.

4b. Again plant community will be altered in the small enclosure area (< 1 acre).

5. <u>FISH/WILDLIFE</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Deterioration of critical fish or wildlife habitat?		X				
b. Changes in the diversity or abundance of game animals or bird species?		X				
c. Changes in the diversity or abundance of nongame species?		X				
d. Introduction of new species into an area?			X		yes	5d
e. Creation of a barrier to the migration or movement of animals?		X				
f. Adverse effects on any unique, rare, threatened, or endangered species?		X				
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)?			X		yes	5g
h. For P-R/D-J, will the project be performed in any area in which T&E species are present, and will the project affect any T&E species or their habitat? (Also see 5f.)		X				
i. For P-R/D-J, will the project introduce or export any species not presently or historically occurring in the receiving location? (Also see 5d.)	NA					

5d. A number of non-native species will be on site, but within enclosures. Enclosure requirements set forth in ARM 12.6.1302, an exterior fence, and mitigation measures will reduce the possibility of escape of the animals and introduction into the area. The exterior fencing will also eliminate the potential for through the fence contact of the captive animals with native populations.

5g. Potential for stress to native game and non-game animals will be mitigated by reducing odors through daily cleaning and neutering of bears eliminating a primary attractant for native bears.

B. HUMAN ENVIRONMENT

6. <u>NOISE/ELECTRICAL EFFECTS</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Increases in existing noise levels?			X		yes	6a
b. Exposure of people to serve or nuisance noise levels?		X				
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		X				
d. Interference with radio or television reception and operation?		X				

6a. Animals, particularly wolves, may increase noise levels. Facility is in a rural area with no close neighbors and captive wolves have been on site for many years with no problems reported.

7. <u>LAND USE</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?		X				
b. Conflicted with a designated wildlife management area, natural area or area of unusual scientific or educational importance?		X				
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?		X				
d. Adverse effects on or relocation of residences?		X				

8. <u>RISK/HEALTH HAZARDS</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Risk of an explosion or release of hazardous substances (including, but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption?		X				
b. Affect an existing emergency response or emergency evacuation plan, or create a need for a new plan?			X		yes	8b
c. Creation of any human health hazard or potential hazard?				X	yes	8c
d. For P-R/D-J, will any chemical toxicants be used? (Also see 8a)	NA					

8a. An emergency evacuation plan regarding natural events (fire, flood, etc.) will be required by the stipulations.

8c. Many of the species on site are capable of inflicting serious injury to humans. Animals on site are "trained" which will minimize the risk. Most of the risk will be to the owners, trainers, and handlers. Mitigation measures prohibit direct public contact with the animals and require conditions when working animals outside the cages that will minimize the risk to clients or the public. Finally, a requirement for insurance will protect both the Department and the owners in the event an animal destroys property or causes injury.

9. <u>COMMUNITY IMPACT</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?		X				
b. Alteration of the social structure of a community?		X				
c. Alteration of the level or distribution of employment or community or personal income?			X		no	9c
d. Changes in industrial or commercial activity?			X		no	9d
e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?						

9c. If a license is granted, a potential impact may be the creation of a minimal number of jobs for the community.

9d. A commercial activity that existed in the past will be reinstituted. This commercial activity does not draw a large number of people and is not expected to significantly affect traffic or congestion in the surrounding area.

10. <u>PUBLIC SERVICES/TAXES/UTILITIES</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Will the proposed action have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify:			X			10a
b. Will the proposed action have an effect upon the local or state tax base and revenues?		X				
c. Will the proposed action result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?		X				
d. Will the proposed action result in increased use of any energy source?		X				
e. Define projected revenue sources		X				
f. Define projected maintenance costs.		X				

10a. The project involves an existing facility and will not have new impacts on any government services. Issuance of a roadside menagerie permit will slightly increase FWP involvement for regulation of the facility over current regulation imposed on the facility under a wild animal menagerie permit and fur farm permit.

11. <u>AESTHETICS/RECREATION</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?		X				
b. Alteration of the aesthetic character of a community or neighborhood?		X				
c. Alteration of the quality or quantity of recreational/tourism opportunities and settings? (Attach Tourism Report.)			X		no	11c
d. For P-R/D-J, will any designated or proposed wild or scenic rivers, trails or wilderness areas be impacted? (Also see 11a, 11c.)	NA					

11c. Establishment of the roadside menagerie permit will provide a potential tourism opportunity for people to observe, and photograph, the animals.

12. <u>CULTURAL/HISTORICAL RESOURCES</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Destruction or alteration of any site, structure or object of prehistoric historic, or paleontological importance?		X				
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X				
d. For P-R/D-J, will the project affect historic or cultural resources? Attach SHPO letter of clearance. (Also see 12.a.)	NA					

SIGNIFICANCE CRITERIA

13. <u>SUMMARY EVALUATION OF SIGNIFICANCE</u> Will the proposed action, considered as a whole:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources that create a significant effect when considered together or in total.)		X				
b. Involve potential risks or adverse effects, which are uncertain but extremely hazardous if they were to occur?			X		yes	13b
c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard or formal plan?			X		yes	13c
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				
e. Generate substantial debate or controversy about the nature of the impacts that would be created?		X				
f. For P-R/D-J, is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e.)		N				
g. For P-R/D-J, list any federal or state permits required.	NA					

13b. Risks to human safety, to wildlife populations, and to livestock exist should the animals escape or have potential for contact with either humans or other animals. Mitigation measures as well as administrative rules are in place to minimize these potential risks. Exterior fences, caging requirements, facility design, requirements when working the animals outside the cages, and prohibitions on public contact all reduce the potential risks.

13c. The proposed action directly conflicts with the animal housing code (ARM 12.6.1302) which states “all wild animals, (which includes all wild mammals, birds, and reptiles, whether or not such animal was bred or reared in captivity) held in captivity in a roadside menagerie, shall be confined at all times in cages of such strength and type of construction that it will be impossible for said animals to escape...” At the same time, no statute or regulation currently addresses the type of private activity the applicant is proposing – working the animals outside of the cages for training and for photography purposes. It is the Department’s position that sufficient safeguards are in place through the stipulations set forth on pages 3-4 of this Environmental Assessment to ensure that the public safety requirements of this regulation will be met if the permit is issued with these stipulations in place.

PART III. NARRATIVE EVALUATION AND COMMENT

The proposed action, issuance of a roadside menagerie permit to Animals of Montana, does not establish any new facility since the facility has been at the same location since 1995, but allows for commercial activity using the animals that are on site. Commercial use of the animals was curtailed in 2009 and the operator wishes to once again be licensed for commercial use of the animals both on and off site. While there are safety risks when any wild animals are involved, those risks most directly relate to the trainers and handlers of the animals. Mitigation measures will be attached to the license to minimize risks to those individuals as well as to the public and to clients. There are also potential risks to native wildlife, domestic animals, and humans should the animals escape. Those risks are mitigated through caging requirements, a perimeter fence around the facility, and additional mitigation measures should the animals be used off site. Those measures include the conditioning of the animals to electrified fence and the use of electrified fence when the animals are out of their cages and off site.

PART IV. PUBLIC PARTICIPATION

1. Public involvement:

The public will be notified in the following manners to comment on this current EA, the proposed action and alternatives:

- Two public notices in each of these papers: Bozeman Chronicle, Livingston Enterprise
- Public notice on the Fish, Wildlife & Parks web page: <http://fwp.mt.gov>.

Copies of this environmental assessment will be distributed to the neighboring landowners and interested parties to ensure their knowledge of the proposed project.

This level of public notice and participation is appropriate for a project of this scope having limited impacts, many of which can be mitigated.

2. Duration of comment period:

The public comment period will extend for (15) thirty days. Written comments will be accepted until 5:00 pm, August 29, 2011 and can be mailed or emailed to the addresses below:

Montana Department of Fish, Wildlife & Parks
Attn: Tim Feldner
P.O. Box 200701
Helena, MT 59620-0701

Or email to tfeldner@mt.gov

PART V. EA PREPARATION

- 1. Based on the significance criteria evaluated in this EA, is an EIS required? Based on the significance criteria evaluated in this EA, an EIS is not required. The only significant impact identified is connected to escape and or loss of control of the animals and resulting injury to humans, wildlife, or domestic animals. The potential for this to happen has been diminished below the level of significance by both existing statutes and administrative rules and by additional mitigation measures applied to the license (see page 3-4) . Most minor impacts identified have also been mitigated.**

- 2. Person(s) responsible for preparing the EA: Tim Feldner, Manager of Commercial wildlife Permitting, Karen Loveless, Region 3 Wildlife Biologist, Montana Department of Fish, Wildlife, & Parks**

- 3. List of agencies or offices consulted during preparation of the EA:**

United States Department of Agriculture/ Animal and Plant Health Inspection Service